



PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 047092.00138
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed Name _____	Application Number: 10/736,632
	Filed: December 17, 2003
	First Named Inventor: Carlos MANZANARES
	Art Unit: 2619
	Examiner: Salman AHMED

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed
- ☒ Attorney or agent of record.
Registration No. 59,326

- ☐ Attorney or agent acting under 37 CFR 1.34.
Reg. No. is acting under 37 CFR 1.34 _____

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September 18, 2008

Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- ☐ *Total of _____ forms are submitted.



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Confirmation No.: 3840

Carlos MANZANARES

Art Unit: 2619

Application No.: 10/736,632

Examiner: Salman AHMED

Filed: December 17, 2003

Attorney Dkt. No.: 047092.00138

For: METHOD AND HIERARCHICAL RADIO NETWORK OPERATIONS SYSTEM FOR CONTROLLING A MOBILE COMMUNICATIONS NETWORK

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 18, 2008

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005 Official Gazette Notice, Applicant hereby submits this Pre-Appeal Brief Request for Review of the final rejections of claims 1-24 in the above identified application. Claims 1-24 were finally rejected in the Office Action dated April 29, 2008. Applicant hereby appeals these rejections and submit this Pre-Appeal Brief Request for Review.

The final Office Action rejected claims 1, 2, 7, 9-11, and 21-24 under 35 U.S.C. § 102(a) as being anticipated by Park et al. (U.S. Patent Publication No. 2002/0006779, hereinafter "Park"). The final Office Action also rejected claims 3 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Park in view of Concept and main requirements 3GPP TS 32.600 4.0.0 Release 4 (3GPP) and further in view of U.S. Patent Publication No. 2001/0037395 to Sabat Jr. et al. (Sabat). The final Office Action rejected claims 6, 8, and 16 under 35 U.S.C. § 103(a) as being unpatentable over Park and further in view of 3GPP.

With respect to the rejection of independent claims 1, 10, and 21-24, the Office Action took that position that Park anticipates "controlling a mobile communications network by a

hierarchical radio network operation system with at least one radio network operations system on a subordinate level and a radio network operations system on a superior level, wherein the controlling comprises initialing a controlling action on the part of the radio network operations system on the superior level (see Office Action, page 2, item 2, lines 3-12). Applicants submit that there is clear error with regard to the anticipation of at least one element of claims 1, 10, and 22-24, upon which claims 2-9 and 11-20 are dependent. Applicants respectfully assert that the final rejection is clearly improper and should be withdrawn, as discussed below.

Applicants respectfully submit that the present claims recite subject matter which is neither disclose or suggest, either expressly or inherently, by Park. For example, Applicants submit that Park does not disclose, either expressly or inherently, “controlling a mobile communications network by a hierarchical radio network operations system with *at least one radio network operations system on a subordinate level and a radio network operations system on a superior level*, wherein the controlling comprises initiating a controlling action on the part of the radio network operations system on the superior level” (emphasis added), as recited in claim 1, and as similarly recited in claims 10 and 22-24.

Park generally discusses managing a mobile communications network ... by means of a telecommunication management network (TMN) (see Park, Paragraph [0026] and Figure 1). The TMN comprises a TMN network management center 100 , a TMN repeater 201 installed within a base station manager (BSM) 200, a local TMN repeater 301 installed within each of control stations 300, and a sub block statement management section 401 installed within each of base stations 400 (see Park, Paragraph [0026] and Figure 1). More particularly, Park explicitly states:

The TMN network management center 100 manages a state information, i.e., configuration, fault, performance, statistics, etc., of sub blocks 202, 302, 402 installed within the BSM 200, the plurality of control stations 300, the plurality of base stations 400 by means of the TMN method, and simultaneously transfer a common management information service element (CMISE) service execute instructions ... to the TMN repeater 301 within the BSM 200.

(see Park, Paragraph [0027]).

However, the Office Action, in a clear erroneous manner, alleged that the control station 300 described in Park corresponds to the “radio network operations system on a subordinate level” as recited in claim 1, for example, and the TMN network management center 100

described in Park corresponds to the “radio network operations system on a superior level”, as recited in claim 1, for example.

Rather, a person of ordinary skill in the art (POSA), when reading Park, would clearly understand that TMN network management center 100 manages state information of the respective sub blocks installed in the BSM 200, the control stations 300, and the base stations 400, and, therefore, could not correspond to a “radio network operations system on a superior level. Furthermore, a POSA would clearly understand that the control station 300 described in Park does not constitute a “radio network operations system on a subordinate level”, as recited in claim 1, because the control station 300 described in Park serves as a generator for state information, i.e., configuration, fault, performance, statistics, etc., of the sub block 302 (see Park, Paragraph [0041]). As such, the Office Action’s interpretation of the control station 300 and the TMN network management center 100, as described in Park, is in clear error.

Therefore, in view of the above, a POSA would understand, when reading Park, that Park does not disclose, either expressly or inherently, “radio network operations system on a subordinate level and a radio network operations system on a superior level”, as recited in claim 1, and as similarly recited in claims 10 and 22-24. Thus, Applicants submit that the final rejection is in clear error and should be withdrawn.

Furthermore, as indicated in the Response filed on February 28, 2008, Sabat generally describes an architecture for providing operations and maintenance functionality in an open access wireless signal distribution system. Moreover, 3GPP generally discusses the configuration management (CM) aspects of managing a 3G network and defines a set of control to be employed to effect set-up and changes to a 3G network in such a way that operational capability and Quality of Service, network integrity and system inter working are ensured. However, it is submitted that nothing was found or cited in either Sabat or 3GPP that cures the deficiencies of Park as discussed above with respect to the independent claims. Therefore, Park, Sabat, and 3GPP, taken alone or in combination, fail to disclose, either expressly or implicitly, all of the elements of the independent claims.

Claims 2-9 and 11-21 are dependent upon independent claims 1 and 10, respectively. Therefore, claims 2-9 and 11-21 should be allowed for at least their dependence upon claims 1 and 10, and for the specific limitations recited therein.

Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested. In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: PTO/SB/33 Form
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Petition for Extension of Time
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